IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.38783 of 2008
PANKAJ KUMAR RAI
Versus
STATE OF BIHAR
---

2. 15.10.2008 Heard Sri Vikramdeo Singh, Advocate for the petitioner and the learned A.P.P. for the State.

Does any one have the power outside the Cr.P.C.? So far my knowledge of law goes, no court could have any powers outside the Cr.P.C. But, there appears some exception, probably, non-existent or may be imaginary as well which could show the insensitive mind of an officer or a Judge. This above could be the basis for the C.J.M. Muzaffarpur and Additional Sessions Judge-IXth, Muzaffarpur to refuse the prayers for bail of the petitioner.

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The petitioner was named in the FIR of a case under Section 307, etc IPC and Arms Act and on investigation a report(Annexure-II) was submitted to the C.J.M. Muzaffarpur on 24.6.2008 by the officer investigating the case informing that the complicity of the petitioner had not been found, rather, it was found that he was wrongly implicated and the S.P., Muzaffarpur had directed initiation of departmental

proceedings against the officer implicating the petitioner and, as such, the petitioner be released.

How the courts in Bihar work could be illustrated by the present case. None of the courts, i.e., C.J.M. or Additional Sessions Judge, could go through Section 169 of the Cr.P.C. which is a provision which directs the release of the accused against whom there is deficiency of material. Here was a report indicating clear case of false implication by a police officer for various reasons consideration of which could not be the concern of this Court. If officers of the rank of C.J.M. and Additional Sessions Judge live under an impression or under their own world of imagination that they are not guided by the Cr.P.C. or, in other words, the provision of the Cr.P.C is of no meaning to them then the God could only save the citizens of this democracy. Personal liberty being trampled and abused in such a way could be simply unparallel any where. The two officers appear exhibiting not only their ill-knowledge of law but also their insensitivily which afflicts them towards the liberties of a citizen

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and an existing provision of law.

The order has to be placed before the Hon'ble Inspecting Judge of the Judgeship of Muzaffarpur so that His Lordship could also have a view of the matter.

As regards the prayer for bail of the petitioner, he shall be released forthwith on his executing a P.R. bond of Rs.100/-(one hundred) only without any surety to the satisfaction of 5th Additional Sessions Judge, Muzaffarpur in Sessions Trial No.498 of 2008(Sakara P.S.Case No.23 of 2008).

(Dharnidhar Jha, J.)

B.Kr.

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